

CRM-M-10877-2024 (O&M)
Date of Decision: 06.03.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhveer Singh Killianwali, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 140 dated 11.08.2023 registered under Sections 22(b) of NDPS Act, 1985 at Police Station City Malout, District Muktsar Sahib.
2. Case of the prosecution is based upon the allegations that petitioner along with co-accused Suresh Kumar @ Shunty were found in conscious possession of about 47 strips of Colovido1 100 SR with 10 tablets in each strip i.e. total 470 tablets of Tramadol Hydrochloride, which they were carrying without any permit or license.
3. Learned counsel for the petitioner *inter alia* contends that the story set up by the prosecution is highly unbelievable as the petitioner and his co-accused are alleged to have been carrying the alleged contraband in a transparent plastic envelope and on seeing the police party, they had thrown the said envelope, which was containing intoxicant tablets. The mandatory provisions of Section 50 of NPDS Act have not been complied with and the alleged contraband recovered from the possession of the petitioner falls

CRM-M-10877-2024

withing the ambit of non-commercial quantity and he is behind the bars for almost six months. Learned counsel further contends that similarly situated co-accused namely Suresh Kumar @ Shunty has been granted the concession of regular bail by this Court vide order dated 06.02.2024 (Annexure P-3) passed in CRM-M-5095-2024.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is a habitual offender and involved in 03 more cases. However, learned State counsel could not controvert the fact that the alleged quantity of contraband recovered from the petitioner falls within the ambit of non-commercial quantity.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 12.08.2023. Investigating Agency has concluded the investigation and submitted the final report under Section 173 of Cr.P.C. on 25.10.2023. Trial of the case has not commenced as none out of the 18 prosecution witnesses, has been examined so far. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr. 2020(1) RCR (Criminal) 831* and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others 2012(2) SCC 382*, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, the present petition is allowed and the petitioner- Dinesh Kumar @ Bunty is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

06.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No